

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

The deposition testimony of  
MICHAEL S. GILLEN,  
taken on Thursday, the 18th day of June, 2020  
commencing at 1:04 p.m.  
at the offices of  
National Collision Technologies, Inc.  
6515 Greenwell Springs Road  
Baton Rouge, Louisiana 70806

MICHAEL GILLEN

1 severity of the impact based on a medical analysis. I  
2 don't do that. So I was not allowed to testify in  
3 kinematics, which, again, is a specific discipline  
4 within accident reconstruction taught by Northwestern.

5 Q. Fair enough.

6 You haven't been retained in this case for either  
7 occupant -- what was the other word -- kinetics?

8 A. Kinematics.

9 Q. -- kinematics or as a truck driving expert; is  
10 that fair?

11 A. That is correct.

12 Q. Okay. All right. And in this case, what are you  
13 anticipating being tendered an expert in?

14 A. Traffic accident reconstruction.

15 Q. Yes, sir.

16 And are there any other fields that you do hold  
17 yourself out as an expert in?

18 A. Well, I have been allowed and recognized by the  
19 Court as an expert in rules of the road, which is  
20 basically the Highway Regulatory Act. I was a traffic  
21 cop for 20 years. And I have been allowed to testify in  
22 MUTCD compliance, the Manual on Uniform Traffic Control  
23 Devices.

24 Q. Okay. Any other field you hold yourself out as  
25 an expert in?

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1 A. No.

2 Q. Okay. Yes, sir.

3 And, now, the work in this case was limited to  
4 the accident that occurred on June 12th of 2018 on I10  
5 East; is that correct?

6 A. Yes.

7 Q. All right. And may we just refer to that as "the  
8 accident"?

9 A. Sure.

10 Q. Okay. And in your work in the last five years,  
11 have you had opportunities to work with Mr. Welborn or  
12 his firm or his clients?

13 A. I have. We've had other cases with Mr. Welborn.  
14 I don't know...

15 Q. More than five?

16 A. Within the last five years?

17 Q. Yes, sir.

18 A. I wouldn't think so.

19 Q. Okay. Yes, sir.

20 All right. Now, I was produced a 26-page report  
21 in this matter, and I want to make sure I don't give you  
22 the one that I have with my little highlights all over  
23 the place. And, actually, it's 27 pages if you count  
24 the cover page.

25 A. Okay.



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1 so that you can produce a 3D modeling based on that  
2 image. We purchased that program after receiving his  
3 report, and we have tried to use the same program. We  
4 don't find that it's giving reliable results.

5 Q. Tell me why.

6 A. Well, part of what you have to do in that program  
7 is go in and pick known distances so that you can scale  
8 the video, so we picked something that was pretty  
9 apparent, and that was -- let me show you.

10 This blob that you see here on the lower left is  
11 what the program is representing from the video. We  
12 identified the LA Avenue sign, the overhead sign on  
13 interstate, and the food sign along the interstate.

14 Q. It's the same food sign we were talking about --

15 A. I think so.

16 Q. -- in Figure 2?

17 A. I think so. I'd have to go back and look.

18 But the distance between these two signs, and  
19 there is 850 feet. So we told --

20 Q. Based on the Google image from Figure 1?

21 A. Based on the measuring tool, yes, within Google  
22 Earth.

23 If you click on the LA Avenue sign and the  
24 overhead sign and the food sign and measure that  
25 distance, you'll get 850 feet.

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1 to calculate the speed of the camera.

2 Q. So did you attempt to do that, blocking out the  
3 hood of the tractor/trailer and other traffic?

4 A. We did.

5 Q. Okay. And did that change the results?

6 A. No. We're still getting this skewed result here  
7 of 366 when it should have been 550.

8 So I don't know that the program's really  
9 intended to do what's being attempted to do with the  
10 program, number one.

11 And if you compare Arrington's report with his  
12 calculated ending speed of whatever it was, 20 --

13 Q. Right under 22, I think.

14 A. Okay.

15 -- 22 miles per hour for the truck, and it says  
16 31.4 for 18-wheeler versus the 35 that the GPS is  
17 showing. I understand that the GPS refreshes its  
18 display about every second, but even accepting his 31.4,  
19 Arrington has said that the truck, based on this  
20 program, this --

21 Q. The tractor/trailer?

22 A. I'm sorry. Yes, the tractor/trailer.

23 -- the tractor/trailer is braking at a rate of .2  
24 to .3. We know that's not true. And we know that's not  
25 true because if you accept Arrington's ending speed at

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1 to .3 braking, this collision would not have occurred.

2 Q. Okay. I think you mentioned that when we were  
3 over there at the things as well.

4 A. Yes.

5 Q. So any other disagreements or conflicts with  
6 Mr. Arrington's report other than what we've already  
7 discussed?

8 A. Well, I'm questioning the use of this program to  
9 do what he tried to do with it. He seemed to have gone  
10 to extremes to try to disprove the display on the GPS  
11 Garmin system. I found it interesting that some of the  
12 values he did not report. He's reported a ending speed,  
13 impact speed from the tractor/trailer, Mr. Jefferson's  
14 vehicle, of 31.4, but what was his starting speed? If  
15 the GPS is wrong at the beginning, what is the GPS --  
16 the actual GPS speed in the beginning?

17 He's gone through the extremes of calculating and  
18 trying to verify a time value versus the 9.5 seconds  
19 that the screen displays. He says it's 9.689 seconds,  
20 we'll call it 9.7 seconds. Well, kind of so what.  
21 Again, you and I can't count that fast, two-tenths of a  
22 second. But what is the speed of the truck and what is  
23 the distance that the truck is away when it begins  
24 braking using the Jake Brakes that are detectable in the  
25 audio of the video?

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1 to match that speed, the braking rate that Jefferson  
2 needs to apply is only .19 versus .2 as normal. And it  
3 just follows the table down.

4 This second column represents the speed of  
5 the dump truck that needs to be matched by Jefferson.  
6 If it's 25, applies a .18; if it's 30, applies a .16;  
7 35, applies a .153.

8 MS. BASH: Yes, sir. Okay. Thank you very  
9 much.

10 Let's mark this -- what's our next one? We  
11 attached -- I went through the order that you talked  
12 about them, and the only one we did not talk about,  
13 Mike, is the "Braking Time Distance," and we'll talk  
14 about that in just a second. Let me go ahead and get  
15 this added and then...

16 BY MS. BASH:

17 Q. Let's look at the photos on Page 18 of your  
18 report. The top one is -- you have the "Trucks Use  
19 Right Lane Only" on that one.

20 A. Right.

21 Q. Now, the bottom one, Figure 21, is a Google  
22 Street view of that; is that correct?

23 A. Yes.

24 Q. Is it a fair statement that using Figure 20, the  
25 sign that you're saying "Trucks Use Right Lane Only,"

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1 that's based on the LDOT plan or traffic control plan on  
2 what that says, you can't actually read that sign from  
3 the video still; is that fair?

4 A. No. I think there's such a limited window of  
5 opportunity to even see that sign in the video, chances  
6 are Mr. Jefferson may not have even seen it. But, to  
7 me, it's insignificant because there is a state statute  
8 within the Highway Regulatory Act Title 32 that requires  
9 traffic to stay out of the left lane unless you're  
10 passing.

11 We know, based on the video, at the start of the  
12 dash cam, Jefferson is just kind of hanging out in the  
13 left lane the duration of this video. An 18-wheeler  
14 ahead of him, the flatbed that shows up in this Figure  
15 20, at one point was in the same lane as Jefferson.  
16 That 18-wheeler returned to the right-hand lane, but,  
17 instead, Jefferson stays in the left lane.

18 Q. What's the statute you're citing?

19 A. I don't recall the statute number.

20 Q. I'm sorry. I thought you just said it.

21 A. No. It's in Title 32.

22 Q. Okay.

23 A. Which is Louisiana State Revised Statute Title 32  
24 of the Highway Regulatory Act.

25 Q. Now, do you plan to offer testimony at trial that

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